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In re Application of	:	
DUTCHOVER	:	DECISION ON PETITION
Serial No.: 10/586,767	:	
PCT No.: PCT/US05/02038	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 21 January 2005	:	
Priority Date: 23 January 2004	:	
Atty Docket No.: 50288	:	
For: METHOD AND COMPOSITION FOR	:	
TREATING SOUR GAS AND LIQUID	:	
STREAMS	:	

This decision is in response to the "Petition Under 37 CFR 1.47" filed 19 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 21 January 2005, applicant filed international application PCT/US05/02038 which claimed priority to an earlier U.S. application filed 21 January 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 July 2006.

On 21 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 19 September 2006, applicant responded with the present petition to accept the present application without the signature of inventor David Dutchover. It is noted that applicant has not provided payment of the surcharge for providing an executed oath or declaration of the inventor later than thirty months from the earliest claimed priority date. As authorized, the \$65.00 small entity fee will be charged to deposit account number 50-1753.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(h); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties

or to prevent irreparable damages. Applicant has satisfied items (1), (3), and (6).

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

In the present case it does not appear that the inventor was mailed a complete set of papers but merely a declaration for execution. As shown above, this is insufficient. In addition, applicant has not provided any evidence to show that the address provided, and to which the declaration was mailed, is the inventor's current address. Additional guidance is available under MPEP section 409.03(d) under the heading of proof of unavailability or refusal to join.

Regarding item (4), the filed declaration has not been executed by an officer of Paradigm Processing Group, LLC on behalf of the corporation and the non-signing inventor. In addition, it does not appear that applicant has recorded an assignment in this application nor satisfied the provisions of 37 CFR 3.73(b). (See MPEP 409.03(b) and 324).

As to item (5), applicant has provided a copy of the assignment from the inventor, David Dutchover to John E. DeLoach. However, applicant has not included the required statement under 37 CFR 3.73(b). (See MPEP 409.03(f). In addition, the petition calls into question what party has a proprietary interest in the invention. The submitted assignment is from the inventor to John E. DeLoach; however this assignment has not been recorded. In addition, applicant references an assignment from John E. DeLoach to Paradigm Processing Group, LLC, the party listed as the assignee on the transmittal letter filed 20 July 2006. There is no evidence that this assignment has been recorded either.

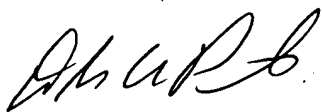
In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, **without prejudice**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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